

Dear Sir/Madam:

At a meeting with EPA on September 8, 2004, the Methyl Bromide Industry Panel (MBIP) requested clarifications on the Clean Air Act Section 114 Information Request published in the Federal Register on August 25, 2004 (69 FR 52403).

Specifically, they asked the following questions seeking clarification of the Section 114 Information Request:

1. Are entities that hold inventories solely for their own use required to respond to EPA?
2. How are entities to report on inventories held by them on behalf of another entity?
3. How might this information be used in allocating critical stock allowances?
4. Will the deadline for responding to the Section 114 Information Request be extended given this clarification?

In this letter, a copy of which is available on EPA's website at www.epa.gov/ozone/mbr, EPA is clarifying the issues brought to our attention. In addition, EPA is publishing in the Federal Register a notice that this letter of clarification is available on our website. The purpose of the Section 114 Information Request is two-fold. One, to capture data regarding national level inventories that will assist the Agency in making a final determination of the total amount of available stocks as discussed in the proposed rulemaking on the critical use exemption (69 FR 52366- 52402). Two, to obtain information that EPA could use to allocate critical stock allowances to entities as described in the proposed rulemaking.

Are entities that hold inventories solely for their own use required to respond to EPA? As specified in section IV.A of the Section 114 Information Request, only those entities that have stocks available for sale or for transfer are required to respond to this notice. Therefore, entities that own stocks and physically hold those stocks solely for their own use are not required to respond to this notice. For example, a tomato farmer in Florida who has stocks of methyl bromide on their own property and who will not transfer those stocks to another entity, (i.e. the stocks are for farmer's own use) would not be required to respond to EPA. Since a farmer who is holding stocks on site for his own use would not be required to expend a critical stock allowance under EPA's proposed rule in order to use those stocks, EPA is not requesting data on such stocks. In addition, EPA believes that amounts held by end users themselves for their own use are very small quantities of methyl bromide that would not substantially change the aggregate

picture of existing and available stocks.

How are entities to report on inventories held by them on behalf of another entity? EPA was asked whether the response to the Section 114 Information Request should differentiate between amounts of inventory held for sale and amounts of inventory being held for transfer that is already forward contracted by another company. For example “producer A” may hold many pounds of methyl bromide for “distributor B”. Since the purpose of the Section 114 Information Request is to obtain information to assist EPA in determining the total amount of existing and available stocks and allocating critical stock allowances, EPA agrees that responses should differentiate between these amounts. In section IV D (ii) of the Section 114 Information Request, EPA is requesting data on the amount of stocks held by you for sale or transfer, whether owned by you for yourself or another entity, as of the date of the original notice (August 25, 2004). Potential respondents indicated to EPA that the Agency may need to know how much of the stock is owned, not held, by a company in order to allocate critical stock allowances. EPA asked respondents in the original notice to collect both sets of data, inventory information on amounts of methyl bromide held and amounts owned, but only specifically asked respondents to report the aggregate amount. However, the potential respondent is correct that the disaggregated data would be of help to the Agency in allocating critical stock allowances if the baseline is ownership of inventory and not physical possession of inventory. Therefore, EPA is clarifying its original request to require respondents to provide the Agency with the data respondents would already be collecting, namely breakout of inventories in their physical possession by who owns the inventory. The response must clearly state what entity owns what portion of the inventory. Again, as specified in section IV.A of the Section 114 Information Request, only those entities that have stocks available for sale or for transfer are required to respond to this notice. Therefore, entities that own stocks and physically hold those stocks solely for their own use are not required to respond to this notice.

How might this information be used in allocating critical stock allowances? As the Notice of Proposed Rulemaking published in the Federal Register on August 25, 2004, describes, the Agency is proposing to allocate critical stock allowances on a pro-rata basis. EPA is considering using the amount of stocks owned by a company as the baseline for the allocation.

Will the deadline for responding to the Section 114 Information Request be extended given this clarification? Given the clarifications EPA is providing in this letter regarding the information requested in the Section 114 notice, the Agency will give respondents additional time to provide EPA with their responses. The new deadline for submission of information pursuant to the Section 114 Information Request published in the Federal Register on August 25, 2004, as clarified in this letter, is now October 14, 2004, one week before comments on the proposed rulemaking are due to the Agency.

As indicated in the Section 114 Information Request published in the Federal Register on August 25, 2004, the data required under this request must be submitted to EPA at the following address:

Hodayah Finman
U.S. Environmental Protection Agency
Stratospheric Protection Division (6205J)

1200 Pennsylvania Avenue, N.W.
Washington, D.C., 20460

or via overnight or courier delivery to:

Hodayah Finman
U.S. Environmental Protection Agency
Stratospheric Protection Division
1310 L Street, NW
Washington, D.C. 20005
att: Hodayah Finman at 343-9410

Your response may be provided to the Agency in letter format and must be signed by a responsible officer of your company who shall make the following certification: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Please feel free to contact Hodayah Finman of my staff at 202-343-9246 or finman.hodayah@epa.gov should you have any further questions or concerns on this matter.

Sincerely,
Drusilla Hufford
Director, Stratospheric Protection Division